

**Addendum to Hearing Statements  
Technical Corrections**

December 16, 2009  
Seattle, WA

Pg. 67, line 8, strike "five"

January 14, 2010  
Albuquerque, New Mexico

p. 64, line 4, not "parody," but "parity"  
p. 66 lines 3, 5, not "Accolate Trust." The correct term is "Aqqaluk Trust."  
p. 69 line 16, not "admitted" but "omitted."  
p. 70, line 5: not "parody" but "parity."  
p. 71, line 13 not "contest" but "attest."  
p. 71 line 25 not "parody" but "parity."

**Statement of Clyde Gooden**  
Vice President, Business Development  
NANA Development Corporation  
before the  
Small Business Administration

Thank you for allowing me this time to discuss proposed changes to the SBA rules regarding the 8(a) Program. My name is Clyde Gooden and I am Vice President of Business Development for NANA Development Corporation (NDC). NDC is the wholly owned subsidiary and the business arm of NANA Regional Corporation, an Alaska Native Corporation, otherwise known as an ANC. Alaska has 13 Regional Corporations and over 200 Village Corporations. "NANA" is one of the Regional Corporations and is located in the Northwest part of Alaska. NANA has over 12,000 shareholders and I am proud to be one.

I was raised in Fairbanks, Alaska and did not live the subsistence lifestyle of my parents and grandparents. But, I was raised to respect their way and taught these important traditions. And when times were tough, I was expected to help in any way I could. My family showed me how to help without making the recipient feel helpless and hopeless, and to offer respect and guidance when possible.

In that same way, the current Small Business Administration 8(a) Program is working, and is providing us with a very important hand up to educate and allow us to prosper and not a hand out like a welfare program.

I have had various positions both with NANA and elsewhere, including serving as the president of NANA Services, an 8(a) company providing base operations and support to the federal government. For the last 20 years, I have worked on behalf of NANA and its

shareholders in piloting start-up companies and working with NANA clients in the commercial and government arenas.

I take great pride in working for NANA, a leader in Alaska over all, and specifically within the 8(a) community. Ultimately, we have become successful in the 8(a) arena and elsewhere. But I would like to also note for the record that success did not come easily or quickly. Our first 8(a)s took time and considerable investment before we realized a return on that investment. It is from the vantage point of lessons learned that we come to this forum to share our perspectives.

Today I will talk about several aspects of the proposed rules the SBA has published regarding the 8(a) program. Those are: shareholder benefits; the application process to become an 8(a) company; creating parity among the Native participants in the 8(a) program, and last, a few thoughts about individually owned 8(a) companies. NANA Development Corporation will be submitting additional comments on these and other thoughts regarding the proposed rules.

### Shareholder benefits

I am a NANA shareholder, and so I have a personal stake in the conversation regarding shareholder benefits. For the record, ANC's are privately held corporations and their owners are those Native indigenous people who are residents of the region. As such, we refer to ourselves as shareholders.

As the SBA notes, the Government Accountability Office and the SBA's Office of Inspector General's reviews of the 8(a) program "questioned certain aspects of SBA's oversight of ANC-owned firms. In particular, there was a concern that SBA did not adequately track the extent to which the benefits of the 8(a) BD program reached individual Alaska natives or the native community." We understand the SBA's concern, yet are troubled by the approach the agency is taking.

First, I would like to address how benefits are distributed. The governing body of NANA Regional Corporation is its Board of Directors, who are shareholders elected by shareholders. NRC Board members, in turn, elect nine of their members to serve on the NDC Board. The NDC Board makes decisions about business operations. All of NDC's profits from our vast businesses flow up to NRC. The NRC Board then makes decisions about the benefits to be provided to shareholders based on their assessment of what is in the best interest of NANA shareholders and based on the NANA's obligation to protect our land and our interests, while providing long-term economic benefit to our shareholders.

In any given year, shareholder needs may vary, and those needs will be considered by the NRC board in determining how to use the Corporation's profits to best benefit shareholders. Cash dividends are one important benefit. In FY 2008, NANA paid nearly \$35 million to our shareholders, distributing \$24.75 per share, up from the \$15 a share we distributed in FY 2007. And by way of comparison, in FY 2003, we paid \$2 share.

These cash dividends are very meaningful in our region, where our unemployment rate tops 20 percent and, regrettably, our suicide rate is one of the highest in the nation. In our remote villages, a gallon of milk can sell for \$10 and gasoline can be had for \$12 per gallon in the outer villages of our region.

While these cash dividends are vital in our local economy, NANA's profits also are used to administer programs that increase job skills, provide internships, award scholarships to help pay for college tuition and vocational training, and to provide other leadership and mentoring programs.

Our primary vehicle for doing so is the Aqqaluk Trust, a non-profit we established to encourage educational advancement and cultural preservation. Over the past eight years NANA contributed \$13 million to the Aqqaluk Trust; in 2008 alone, the trust distributed \$642,000 in scholarships to 290 future leaders. It is also worth noting that the Aqqaluk Trust supports a summer cultural camp for children, funds projects to preserve our Inupiaq language, and offers grants to villages for their own cultural programs.

In 2008, our shareholders voted to establish an Elders Settlement Trust to make life a little easier for our elders, many of whom never worked in a business environment that provides retirement income or eligibility toward Social Security. In 2008, NANA contributed \$879,000 to the Trust so that \$1,500 could be given to each of our 586 Elders, shareholders who are over 65.

Our profits are also used to fund regional search and rescue operations, support health and social service providers in the NANA region, as well as the Regional Elders Council, Tribal Councils, and other Native-involved organizations.

Second, as a practical matter, it important for the SBA to understand how many Native corporations operate.

In our specific case, our 8(a) companies are managed by one of several holding companies, which in turn are overseen by NANA Development Corporation. All of the net proceeds of the 8(a) companies are aggregated and provided to NDC through the respective holding company.

Additionally, we further consolidate the revenues from our government contracting businesses along with those from our diverse commercial sector, which includes mining, operating hotels, and architecture and engineering, to name a few. All of the business revenues are then consolidated with revenues from resources at the NANA Regional Corporation level. We have no practical way at this time, without extraordinary cost and time, to identify and track particular benefits received by a shareholder to any individual 8(a) business.

Further, we remain concerned regarding what the SBA would do with the data and information it collects. Why should the government collect data that it cannot possibly and reasonably analyze? Against what "standard" would such data be evaluated? How can you place a value on language or cultural preservation? For us, this is priceless. There will be no consistency among Native or CDC participants as to the benefits provided.

Implied in the decision to collect the data is the notion that the Federal government would thereafter comment upon the benefit distribution – or far worse – begin to suggest or even direct how benefits should be distributed. This is, indeed, a very slippery slope and one that could quickly cross the line in dealing with sovereign entities, such as Tribes.

We also remain concerned that this standard for reporting use of profits does not extend to individual owners of 8(a) companies. While we are not advocating for same, we believe that a business development program should focus on metrics relating to the business development, not use of profits.

While we appreciate the need for transparency, we would respectfully suggest that the agency reconsider the vague proposition put forward in the draft rule.

NANA has always published its benefit information at the parent corporation level. We are a privately held corporation and provide complete information to our shareholders, and that information is also readily accessible from our website. We would encourage all participants in the 8(a) program – including individually owned 8(a) companies – to provide similar disclosure, but we object to the government's proposed collection of this information.

#### The 8(a) Application Process

Another matter I wish to discuss concerns the proposed rule to move the initial review of ANC 8(a) applications from the SBA Anchorage District Office to San Francisco. We have heard informally from various SBA officials that this change has already taken place and it is because individuals in San Francisco have the specific expertise in this area.

With all due respect, we believe that it is incumbent upon the SBA to ensure that all of its field offices are fully staffed with the capabilities to provide customer service at the district office closest to the customer. The relationships begun with the SBA during the application stage are critical throughout the participation in the program. Rather than move the processing to San Francisco, SBA should ensure that its Anchorage office can handle the work of the initial review. If there are multiple stages of review and approval, we would be less concerned if the latter stages were relocated from Alaska and the initial review remained in Anchorage.

As one who has steered more than one company through the 8(a) application process, I know how important it is to have ready access to SBA staff. While the forms and questions may seem intuitive to the SBA, to a new entrepreneur, particularly from a remote Alaskan village, they are not. Even experienced applicants, such as NANA, have had difficulty completing the applications.

While we support the SBA's proposal to add a new paragraph to Section 124.204, which governs application processing to clarify the burden of proof to demonstrate eligibility is upon the applicants, we do not support the idea that SBA should presume information requested but not submitted would be adverse.

I would respectfully suggest that information could be omitted for a variety of reasons, ranging from simple oversight to not understanding the question or not having the data available in the format requested. Again, proximity between the SBA and the applicant can help work through this circumstance.

NANA takes great pride in its work to mentor and assist those Alaska Village Corporations that just now are working to enter the 8(a) program. I am currently working with the Village of Shifmaref. To get to San Francisco, an individual would first travel by charter to Nome, and then via commercial air to San Francisco. When you add in lodging and incidentals, it can cost well over \$2,300 to make that trip, compared to less than half that amount to go to Anchorage. The proposed rule also notes that the SBA would have discretion to re-assign the initial review to its Philadelphia office. In addition to considerable expense to meet in person, no consideration is given to the 4-hour time difference between Alaska and the East Coast.

#### Parity Among Native 8(a) Participants

Another matter I would like to discuss today concerns the proposal to provide greater parity among the Native 8(a) participants. We applaud the SBA for making recommendations in the proposed rule to create greater parity among the three Native 8(a) participants: Tribes, Native Hawaiians, and Alaska Native Corporations. We believe that these changes are long overdue.

Specifically regarding the proposals, we support the recommendation to maintain the status quo regarding information the SBA needs to determine whether a Tribe is economically disadvantaged.

We do not see how a “bright line” test could be implemented. More importantly, we fully support the one-time determination of economic disadvantage that would cover all later applications by a new subsidiary corporation of the same tribe.

Additionally, at 13 CFR 124.09(c)(4) while we support the SBA’s position regarding economic disadvantage requirements for Tribal members, we take exception to the SBA’s proposal regarding management of a Tribe’s 8(a).

We believe that the SBA is heading in the right direction in no longer requiring that the manager be a member of the Tribe that owns the 8(a), but believe the SBA should go one step further in that a Tribe, like an ANC, should be able to hire the best manager available to grow and sustain the business without regard to that person’s ethnicity.

It seems unfair to restrict Tribes from hiring non-Natives when that restriction does not apply to ANCs or NHOs. Simply put, we believe that there should parity among the rules for all Native participants and the additional requirements placed upon Tribes, such as having a written management plan about developing managerial skills, should be eliminated.

Speaking as a Native manager from one ANC, I can attest to our corporate desire to grow as many future leaders and managers as possible from among our shareholders. Our financial

commitment to education and training demonstrates that we are working hard to create that next generation of Native managers – but it does take time.

We would also like to applaud the SBA for its proposal at 13 CFR 124.109(c)(6) that would permit the SBA to consider the financial support of the parent ANC or Tribe to an ANC or Tribally-owned 8(a) corporation applying to the 8(a) program as one of the criteria for success. This is a very positive change.

Last, with respect to parity among Native 8(a)s, we commend the SBA for its two proposals that would help NHOs operate in a similar manner as ANCs and Tribes with 8(a) contracting. [Sections 124.506(b) and 124.5129]

### Thoughts About Individually Owned 8(a) Businesses

There are many instances in the proposed regulatory changes where it is clear that the SBA is being responsive to the concerns voiced by individual 8(a) owners. From our perspective, these all appear to be significant improvements. Inasmuch as we seek to work with individual 8(a) owners in communities across the nation, these general improvements will only make the program better overall.

I would also like to comment on a matter not specifically contained in the proposed regulations -- that is length of time for this 8(a) business development program. Currently, it is a 9-year venture, with expectations that with each year, there will be an increasing mix of 8(a) set-aside and competitive contract wins.

For so many businesses, particularly the individually owned 8(a)s, the first two years are truly incubation years when you are just learning to navigate the system and figure out how to bid on jobs.

I have heard that many companies are just starting to get traction at the end of this 9-year period and many others have gone through the entire program without successfully being awarded a government contract. Thus, it seems to me that in light of today's economy, serious consideration should be given to extending the 9-year period.

### Conclusion

Thank you very much for this opportunity to speak with you today. As I noted, NANA Development Corporation will be submitting more comprehensive comments by the end of the comment period.

We very much appreciate the SBA's outreach to listen to our concerns and positions about the proposed rules. The agency's willingness to engage in the Tribal Consultation process is very much appreciated.

The 8(a) program has made a tremendous difference in the lives of Alaska Natives and in the general economy of the State of Alaska overall. But much remains to be done to address the continuing and serious needs that our citizens and shareholders face.

We know that some of you have met with many ANCs in Anchorage in the past, but there are many Village corporations now just starting out that have very compelling stories and would greatly benefit from the opportunity to interact with you. We invite the SBA to meet with us in Alaska anytime.